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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/614,501	10/07/2003	Bruce Randall Hamlett	HBR-106-A	9255

7590 04/08/2004

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EXAMINER

ALIMENTI, SUSAN C

ART UNIT	PAPER NUMBER
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3644

DATE MAILED: 04/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/614,501

Applicant(s)

HAMLETT, BRUCE RANDALL

Examiner

Susan C. Alimenti

Art Unit

3644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 October 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13, 15 and 18-24 is/are rejected.
- 7) ☒ Claim(s) 14, 16 and 17 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Drawings*

1. New corrected drawings are required in this application because the presently filed drawings are informal. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3, 5-12 and 18-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Bowling (US 6,357,159).

Bowling discloses the invention substantially as claimed. Bowling's animal decoy device comprises a pulley system for hanging/and or pulling a decoy, actuating a motion that mimics that of a real animal. As can be seen in Figures 16, 17 and 32 several animal decoys are dragged across the ground, thus making ground contact and creating the sound of rustling grass, a noise associated with the footfall of an animal. Figures 19-20 show one of the blunt surfaces 78 operable to selectively strike the ground, and said blunt 78 having hemispherical side surfaces.

Art Unit: 3644

A spring 32 extends along a substantially arcuate path as it winds about shaft 26, and is considered to have a substantially straight path as a whole along the length of shaft 26. The device is remotely engageable by positioning means comprising a plurality of elastic, resilient cords 48 and anchors 64, 66, 104, and 108.

Bowling's above device is considered to be inherently capable of performing the method of claims 19-20.

4. Claims 1-2, 5-12, and 18-24 rejected under 35 U.S.C. 102(b) as being anticipated by Williams (US 6,289,626).

Williams discloses a device for generating the noise of deer antlers clashing, said noise mimicking the territorial fighting of deer. Naturally when deer or any animal fights, footfall occurs. Therefore the sound of deer antlers clashing is associated with the footfall of an animal. Williams' device comprises a blunt 21 for striking the surface of the opposite blunt 21, anchors 11 and 19, spring 22, and elastic, resilient cords 18, 20.

The above described device is considered to be inherently capable of performing the method of claims 18-24.

#### *Claim Rejections - 35 USC § 103*

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3644

6. Claims 1-5, 7, 10-13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hartly (US 5,813,899).

Hartly discloses the claimed invention, except the noise generated mimics a woodpecker but is meant to attract wild turkey. Hartly's device for attracting an animal comprises a substantially hemispherical or spherical blunt 26 attached to spring 27 operable to selectively strike surface 15. The device creates a noise mimicking a woodpecker, and is considered to be *associated* with the sound of the footfall of said animal. It is known that animals are attracted to areas where other similar animals are located, as this is conducive for mating and further indicates an area containing abundant amounts of food. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use Hartly's device to attract woodpeckers to a common area.

#### *Allowable Subject Matter*

7. Claims 14 and 16-17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### *Conclusion*

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan C. Alimenti whose telephone number is 703-306-0360. The examiner can normally be reached on Monday-Friday, 9am-5pm.

Art Unit: 3644

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles T. Jordan can be reached on 703-306-4159. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

7. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SCA

*Charles T. Jordan*  
**CHARLES T. JORDAN**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 3600**